Montana Legislative History

Chapter: 375 Session L: 1999
Bill Number: 580 House

Checklist of Bill History

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☒
Third Reading Bill	☒
Final Version of Bill	☒

House	**Senate**
Committee: Human Services	Committee:Public Health, Welfare and Safety
Hearing Date(s): February 17, 1999	Hearing Date(s): March 10, 1999
Committee Report:	Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by:FLR

Date: October 12, 2023

Notes: Compiled for State Agency. House Committee Minutes are on a cassette tape. Instructed patron to contact the MT State Historical Society.

camera-ready format, with the secretary of state no later than 105 days before the election at which the issue will be voted on by the people. *The argument must consist solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the secretary of state. With the goal of achieving readability and uniformity, the secretary of state shall prescribe a commonly used font and type style.* A majority of the committee responsible for preparation shall approve and sign each argnment filed. Separate signed letters of approval of an argument may be filed with the secretary of state by members of a committee if necessary to meet the filing deadline."

Section 3. Section 13-27-407, MCA, is amended to read:

"13-27-407. Rebuttal arguments. The secretary of state shall provide copies of the arguments advocating approval or rejection of a ballot issue to the members of the adversary committee no later than 1 day following the filing of both the approval and rejection arguments for the issue. The committees may prepare rebuttal arguments no longer than one-half the size of the arguments under 13-27-406 that must he filed, in ~~in~~ a black-and-white, camera-ready format, with the secretary of state no later than 10 days after the deadline for filing the original arguments. *The argument must consist solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the secretary of state. With the goal of achieving readability and uniformity, the secretary of state shall prescribe a commonly used font and type style.* Discussion in the rebuttal argument must be confined to the subject matter raised in the argument being rebutted. The rebuttal argument must be approved and signed by a majority of the committee responsible for its preparation. Separate signed letters of approval may be submitted in the same manner as for the original arguments."

Approved April 20, 1999

CHAPTER NO. 375

[HB 580]

AN ACT PROVIDING THAT COMPLAINTS OF UNPROFESSIONAL CONDUCT BY LICENSED OR CERTIFIED HEALTH CARE OR REHABILITATIVE SERVICES PROVIDERS FROM PERSONS DETAINED IN COUNTY DETENTION CENTERS OR INCARCERATED UNDER LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS MUST BE SUBMITTED TO A REVIEW TEAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE PRIOR TO BEING FILED WITH A LICENSING BOARD; AMENDING SECTION 37-1-308, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Seetion 1. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct — complaint — investigation — immunity — ~~exception~~ *exceptions*. (1) Except as provided in subsection (3), a person, government, or private entity may submit a written complaint to the

department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

~~(3) A person may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while incarcerated under the legal custody of the department of corrections. If the department of corrections has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person incarcerated under the legal custody of the department of corrections, the department of corrections shall report the possible violation to the department for appropriate action under subsection (2).~~

(3) A person under legal custody of a county detention center or incarcerated under legal custody of the department of corrections may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center or incarcerated under legal custody of the department of corrections unless the complaint is first reviewed by a correctional health care review team provided for in [section 2]."

Section 2. Correctional health care review team. (1) There is a correctional health care review team process in the department. The purpose of a review team is to review complaints filed by an inmate against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while the person was detained or confined in a county detention center or incarcerated under legal custody of the department of corrections. The inmate may file a complaint directly with the correctional health care review team for review or, if a board receives a complaint that has not been reviewed, the board shall forward the complaint to the review team. If the review team has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person detained or confined in a county detention center, the review team shall report the possible violation to the department for appropriate action under 37-1-308.

(2) Each health care licensing board shall solicit and submit to the department a list of licensed or certified health care or rehabilitative service professionals who have correctional health care experience and who are interested in participating on a team. A current board member may not participate on a review team. The department shall solicit from the administrators of the county detention centers and from the department of corrections names of licensed or certified health care or rehabilitative service providers who have correctional health care or rehabilitative services experience and are interested in participating on a review team. Each member of a review team must have at least 2 years of experience in providing health care or rehabilitative services in a correctional facility or program.

(3) Each correctional health care review team is composed of three members who shall represent healtb care and rehabilitative service providers who have provided health care or rehabilitative services to incarcerated persons. Two members of the review team must he providers of the same discipline and scope of practice as the provider against whom a complaint was filed and the third member may be a provider of any other health care or rehabilitative services discipline. The members must be willing to serve without compensation. If available, a correctional health care professional employed by the department of corrections and appointed by the director of the department of corrections may participate on the review team, except when the provider against whom the complaint was filed was employed by the department of corrections.

(4) The members of a review team are appointed by the department from the listing of health care and rehabilitative service providers with correctional experience who have been submitted by each respective board, a county detention center administrator, or the department of corrections as provided in subsection (2). A review team shall meet at least twice a year. Any travel, lodging, meal, or miscellaneous costs incurred by a review team may be recovered through a memorandum of understanding with the agencies who provide medical services to inmates or may be assessed to the licensing or certifying boards of health care and rehabilitative service providers.

(5) The review team shall review each complaint with regard to the health care or rehabilitative services provider's scope of practice. A decision on whether or not to forward the complaint must be made by the majority of the review team. The review team shall submit a written response regarding the decision to the inmate, the county detention center administrator or the department of corrections, and the health care or rehabilitative services provider. If the decision is to not forward the complaint for action under 37-1-308, a record of the complaint may not be forwarded to any licensing or certifying board, but must be retained by the department.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 1999.

Approved April 20, 1999

CHAPTER NO. 376

[HB 644]

AN ACT CREATING THE GOVERNOR'S LOCAL COAL IMPACT REVIEW COUNCIL; DESCRIBING THE COMPOSITION, PURPOSE, AND AUTHORITY OF THE COUNCIL; APPROPRIATING FUNDS FOR THE EXPENSES OF THE COUNCIL; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, coal development and its effects are important to Montana's society and economy; and

WHEREAS, the traditions of Montana public policy development are citizen-inclusive; and

Bill Draft Number: LC1487
Bill Type - Number: HB 580
Short Title: Create review team for health care complaints by county detention center inmates
Primary Sponsor: Trudi Schmidt (D) HD 42
Chapter Number: 375

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 54

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/22/1999			
(H) Signed by Governor	04/20/1999			
(H) Transmitted to Governor	04/16/1999			
(S) Signed by President	04/15/1999			
(H) Signed by Speaker	04/14/1999			
(C) Printed - New Version Available	04/14/1999			
(H) Returned from Enrolling	04/14/1999			
(H) Sent to Enrolling	04/12/1999			
(H) 3rd Reading Passed as Amended by Senate	04/12/1999	85	14	
(H) Scheduled for 3rd Reading	04/12/1999			
(H) 2nd Reading Senate Amendments Concurred	04/10/1999	91	9	
(H) Scheduled for 2nd Reading	04/10/1999			
(S) Returned to House with Amendments	03/19/1999			
(S) 3rd Reading Concurred	03/19/1999	44	0	
(S) Scheduled for 3rd Reading	03/19/1999			
(S) 2nd Reading Concurred	03/18/1999	48	0	
(S) Scheduled for 2nd Reading	03/18/1999			
(S) Scheduled for 2nd Reading	03/17/1999			
(C) Printed - New Version Available	03/16/1999			
(S) Committee Report--Bill Concurred as Amended	03/16/1999			(S) Public Health, Welfare and Safety
(S) Committee Executive Action--Bill Concurred as Amended	03/16/1999	10	0	(S) Public Health, Welfare and Safety
(S) Hearing	03/10/1999			(S) Public Health, Welfare and Safety
(S) Referred to Committee	02/22/1999			(S) Public Health, Welfare and Safety
(S) First Reading	02/22/1999			
(H) Transmitted to Senate	02/20/1999			
(H) 3rd Reading Passed	02/20/1999	84	15	
(H) Scheduled for 3rd Reading	02/20/1999			
(H) 2nd Reading Passed	02/19/1999	93	6	

(H) Scheduled for 2nd Reading	02/19/1999			
(H) Committee Report--Bill Passed	02/18/1999			(H) Human Services
(H) Committee Executive Action--Bill Passed	02/18/1999	18	0	(H) Human Services
(H) Hearing	02/17/1999			(H) Human Services
(H) Fiscal Note Printed	02/16/1999			
(H) Fiscal Note Signed	02/16/1999			
(H) Fiscal Note Received	02/16/1999			
(H) Fiscal Note Requested	02/15/1999			
(C) Introduced Bill Text Available Electronically	02/10/1999			
(H) Referred to Committee	02/10/1999			(H) Human Services
(H) First Reading	02/10/1999			
(H) Introduced	02/10/1999			
(C) Draft Delivered to Requester	02/05/1999			
(C) Draft Ready for Delivery	02/03/1999			
(C) Draft in Assembly/Executive Director Review	02/03/1999			
(C) Draft in Final Drafter Review	02/03/1999			
(C) Draft in Final Drafter Review	02/03/1999			
(C) Bill Draft Text Available Electronically	02/02/1999			
(C) Draft in Input/Proofing	02/02/1999			
(C) Draft to Drafter - Edit Review [SAB]	02/02/1999			
(C) Draft in Edit	02/02/1999			
(C) Draft in Legal Review	02/02/1999			
(C) Draft to Requester for Review	02/01/1999			
(C) Draft Back for Requester Changes	01/26/1999			
(C) Draft to Requester for Review	01/25/1999			
(C) Draft Request Received	01/04/1999			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Schmidt	Trudi	
Drafter	Fox	Susan	
Primary Sponsor	Schmidt	Trudi	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Corrections		Simple	CORR
Health Care Services (see also: Health)		Simple	HLTC

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N
Session Law Ch. Number: 375
DEADLINE
Category: General Bills
Transmittal Date: 02/24/1999
Return (with 2nd house amendments) Date: 04/01/1999

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-JUL-99	

AN ACT PROVIDING THAT COMPLAINTS OF UNPROFESSIONAL CONDUCT BY LICENSED OR CERTIFIED HEALTH CARE OR REHABILITATIVE SERVICES PROVIDERS FROM PERSONS DETAINED IN COUNTY DETENTION CENTERS OR INCARCERATED UNDER LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS MUST BE SUBMITTED TO A REVIEW TEAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE PRIOR TO BEING FILED WITH A LICENSING BOARD; AMENDING SECTION 37-1-308, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct -- complaint -- investigation -- immunity -- ~~exception~~ exceptions. (1) Except as provided in subsection (3), a person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

~~(3) A person may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while incarcerated under the legal custody of the department of corrections. If the department of corrections has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person incarcerated under the legal custody of the department of corrections, the department of corrections shall report the possible violation to the department for appropriate action under subsection (2).~~

(3) A person under legal custody of a county detention center or incarcerated under legal custody of the department of corrections may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center or incarcerated under legal custody of the department of corrections unless the complaint is first reviewed by a correctional health care review team provided for in [section 2]."

Section 2. Correctional health care review team. (1) There is a correctional health care review team process in the department. The purpose of a review team is to review complaints filed by an inmate against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while the person was detained or confined in a county detention center or incarcerated under legal custody of the department of corrections. The inmate may file a complaint directly with the correctional health care review team for review or, if a board receives a complaint that has not been reviewed, the board shall forward the complaint to the review team. If the review team has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person detained or confined in a county detention center, the review team shall report the possible violation to the department for appropriate action under 37-1-308.

(2) Each health care licensing board shall solicit and submit to the department a list of licensed or certified health care or rehabilitative service professionals who have correctional health care experience and who are interested in participating on a team. A current board member may not participate on a review team. The department shall solicit from the administrators of the county detention centers and from the department of corrections names of licensed or certified health care or rehabilitative service providers who have correctional health care or rehabilitative services experience and are interested in participating on a review team. Each member of a review team must have at least 2 years of experience in providing health care or rehabilitative services in a correctional facility or program.

(3) Each correctional health care review team is composed of three members who shall represent health care and rehabilitative service providers who have provided health care or rehabilitative services to incarcerated persons. Two members of the review team must be providers of the same discipline and scope of practice as the provider against whom a complaint was filed and the third member may be a provider of any other health care or rehabilitative services discipline. The members must be willing to serve without compensation. If available, a

correctional health care professional employed by the department of corrections and appointed by the director of the department of corrections may participate on the review team, except when the provider against whom the complaint was filed was employed by the department of corrections.

(4) The members of a review team are appointed by the department from the listing of health care and rehabilitative service providers with correctional experience who have been submitted by each respective board, a county detention center administrator, or the department of corrections as provided in subsection (2). A review team shall meet at least twice a year. Any travel, lodging, meal, or miscellaneous costs incurred by a review team may be recovered through a memorandum of understanding with the agencies who provide medical services to inmates or may be assessed to the licensing or certifying boards of health care and rehabilitative service providers.

(5) The review team shall review each complaint with regard to the health care or rehabilitative services provider's scope of practice. A decision on whether or not to forward the complaint must be made by the majority of the review team. The review team shall submit a written response regarding the decision to the inmate, the county detention center administrator or the department of corrections, and the health care or rehabilitative services provider. If the decision is to not forward the complaint for action under 37-1-308, a record of the complaint may not be forwarded to any licensing or certifying board, but must be retained by the department.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 1999.

- END -

I hereby certify that the within bill,
HB 0580, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____ day
of _____, 2019.

_____

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 580

INTRODUCED BY T. SCHMIDT, E. FRANKLIN

AN ACT PROVIDING THAT COMPLAINTS OF UNPROFESSIONAL CONDUCT BY LICENSED OR CERTIFIED HEALTH CARE OR REHABILITATIVE SERVICES PROVIDERS FROM PERSONS DETAINED IN COUNTY DETENTION CENTERS OR INCARCERATED UNDER LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS MUST BE SUBMITTED TO A REVIEW TEAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE PRIOR TO BEING FILED WITH A LICENSING BOARD; AMENDING SECTION 37-1-308, MCA; AND PROVIDING AN EFFECTIVE DATE.

HOUSE BILL NO. 580

INTRODUCED BY T. SCHMIDT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT COMPLAINTS OF UNPROFESSIONAL CONDUCT BY LICENSED OR CERTIFIED HEALTH CARE OR REHABILITATIVE SERVICES PROVIDERS FROM PERSONS DETAINED IN COUNTY DETENTION CENTERS MUST BE SUBMITTED TO A REVIEW TEAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE PRIOR TO BEING FILED WITH A LICENSING BOARD; AMENDING SECTION 37-1-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct -- complaint -- investigation -- immunity -- ~~exception~~ exceptions. (1) Except as provided in ~~subsection~~ subsections (3) and (4), a person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

(3) A person may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while incarcerated under the legal custody of the department of corrections. If the department of corrections has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person incarcerated under the legal custody of the department of corrections, the department of corrections shall report the possible violation to the department for appropriate action under subsection (2).

(4) A person under legal custody of a county detention center may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided

to the person while detained or confined in a county detention center unless the complaint is first reviewed by a correctional health care review team provided for in [section 2]."

NEW SECTION. **Section 2. Correctional health care review team.** (1) There is a correctional health care review team process in the department. The purpose of a review team is to review complaints filed by an inmate against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while the person was detained or confined in a county detention center. The inmate may file a complaint directly with the correctional health care review team for review or, if a board receives a complaint that has not been reviewed, the board shall forward the complaint to the review team. If the review team has reason to believe that there has been a violation of this part arising out of health care or rehabilitative services provided to a person detained or confined in a county detention center, the review team shall report the possible violation to the department for appropriate action under 37-1-308.

(2) Each health care licensing board shall solicit and submit to the department a list of licensed or certified health care or rehabilitative service professionals who have correctional health care experience and who are interested in participating on a team. A current board member may not participate on a review team. The department shall solicit names of licensed or certified health care or rehabilitative service providers from the administrators of the county detention centers who have correctional health care or rehabilitative services experience and are interested in participating on a review team. Each member of a review team must have at least 2 years of experience in providing health care or rehabilitative services in a correctional facility or program.

(3) Each correctional health care review team is composed of three members who shall represent health care and rehabilitative service providers who have provided health care or rehabilitative services to incarcerated persons. Two members of the review team must be providers of the same discipline and scope of practice as the provider against whom a complaint was filed and the third member may be a provider of any other health care or rehabilitative services discipline. The members must be willing to serve without compensation. If available, a correctional health care professional employed by the department of corrections and appointed by the director of the department of corrections may participate on the review team.

(4) The members of a review team are appointed by the department from the listing of health care and rehabilitative service providers with correctional experience who have been submitted by each respective board or a county detention center administrator as provided in subsection (2). A review team shall meet at least twice a year. Any administrative costs incurred by a review team may be recovered through a memorandum of

understanding with the agencies who provide medical services to inmates or may be assessed to the licensing or certifying boards of health care and rehabilitative service providers.

(5) The review team shall review each complaint with regard to the health care or rehabilitative services provider's scope of practice. A decision on whether or not to forward the complaint must be made by the majority of the review team. The review team shall submit a written response regarding the decision to the inmate, the county detention center administrator, and the health care or rehabilitative services provider. If the decision is to not forward the violation for action under 37-1-308, a record of the complaint may not be forwarded to any licensing or certifying board, but must be retained by the department.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 2].

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 1999.

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HOUSE BILL NO. 580

INTRODUCED BY T. SCHMIDT, E. FRANKLIN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT COMPLAINTS OF UNPROFESSIONAL CONDUCT BY LICENSED OR CERTIFIED HEALTH CARE OR REHABILITATIVE SERVICES PROVIDERS FROM PERSONS DETAINED IN COUNTY DETENTION CENTERS OR INCARCERATED UNDER LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS MUST BE SUBMITTED TO A REVIEW TEAM ADMINISTERED BY THE DEPARTMENT OF COMMERCE PRIOR TO BEING FILED WITH A LICENSING BOARD; AMENDING SECTION 37-1-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

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~~(4)~~(3) A person under legal custody of a county detention center OR INCARCERATED UNDER LEGAL CUSTODY

OF THE DEPARTMENT OF CORRECTIONS may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center OR INCARCERATED UNDER LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS unless the complaint is first reviewed by a correctional health care review team provided for in [section 2]."

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of the department of corrections may participate on the review team, EXCEPT WHEN THE PROVIDER AGAINST WHOM THE COMPLAINT WAS FILED WAS EMPLOYED BY THE DEPARTMENT OF CORRECTIONS.

(4) The members of a review team are appointed by the department from the listing of health care and rehabilitative service providers with correctional experience who have been submitted by each respective board ~~or~~, a county detention center administrator, OR THE DEPARTMENT OF CORRECTIONS as provided in subsection (2). A review team shall meet at least twice a year. Any ~~administrative costs~~ TRAVEL, LODGING, MEAL, OR MISCELLANEOUS COSTS incurred by a review team may be recovered through a memorandum of understanding with the agencies who provide medical services to inmates or may be assessed to the licensing or certifying boards of health care and rehabilitative service providers.

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NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 2].

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 1999.

- END -

FISCAL NOTE

Bill #: **HB0580**

Title: **Create review team for health care complaints by county detention center inmates**

Primary Sponsor: **Trudi Schmidt**

Status: **As introduced**

Sponsor signature Date

Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:	$0	$0
Revenue:	$0	$0
Net Impact on General Fund Balance:	**$0**	**$0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Department of Commerce, Professional and Occupational Licensing Division:

1. The Department of Commerce, Professional and Occupational Licensing Division, will enter into a memorandum of understanding with each detention agency that is/or has provided medical services to an inmate wanting to file a complaint against a professional regulated by the division. This memorandum of understanding will require the affected agency to cover the administrative costs incurred by the review panel.
2. The department will facilitate the meetings of the panels. All costs incurred by the division for facilitating the meetings will be absorbed by the Executive Budget.

3. There is no fiscal impact to the Department of Corrections.

TECHNICAL NOTES:
Memoranda of Understanding must be entered into in order to transfer the costs incurred by a review panel back to the affected agencies.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN LOREN SOFT**, on February 17, 1999 at 3:00 P.M., in Room 325 Capitol.

ROLL CALL

Members Present:
Rep. Loren Soft, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Carolyn Squires, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Tom Dell (D)
Rep. Mary Anne Guggenheim (D)
Rep. Verdell Jackson (R)
Rep. Billie Krenzler (D)
Rep. Ralph Lenhart (D)
Rep. Brad Molnar (R)
Rep. Trudi Schmidt (D)
Rep. Jim Shockley (R)
Rep. Bruce Simon (R)
Rep. Bill Thomas (R)
Rep. Carol Williams (D)

Members Excused: None.

Members Absent: Rep. Chase Hibbard (R)

Staff Present: David Niss, Legislative Branch
Cassandra Drynan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 554	
	HB 607	
	HB 580	
Executive Action:	HB 580	DO PASS 18-0
	HB 600	TABLED 12-6
	HB 498	TABLED 14-4

HEARING ON HOUSE BILL 580

Opening Statement by Sponsor: **REP. SCHMIDT** introduced the bill.
{Tape : 1; Side : A; Approx. Time Counter : 1.5 - 4.6}

Proponents' Testimony:

Mr. Steve Meloy, Administrator of the Division to which the Advisory Board would report.
{Tape : 1; Side : A; Approx. Time Counter : 4.6 - 6.3}

Ms. Sharon Howard, Health Services Director at the Cascade County Adult Detention Center, Great Falls.
{Tape : 1; Side : A; Approx. Time Counter : 6.3 - 11.1}

Ms. Deb Christofferson, registered nurse, Great Falls.
{Tape : 1; Side : A; Approx. Time Counter : 11.1 - 13.9}

Mr. John Strandell, Sherif of Cascade County.
{Tape : 1; Side : A; Approx. Time Counter : 13.9 - 15.7}

Ms. Sally Johnson, Department of Corrections.
{Tape : 1; Side : A; Approx. Time Counter : 15.7 - 18.3}

Mr. Bob Anderson, Montanan Sheriffs and Peace Officers Association.
{Tape : 1; Side : A; Approx. Time Counter : 18.3 - 19.1}

Opponents' Testimony: None.

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Time Counter : 19.1 - 26.1}

Closing by Sponsor: **REP. SCHMIDT** closed.
{Tape : 1; Side : A; Approx. Time Counter : 26.1 - 26.4}

HEARING ON HOUSE BILL 554

Opening Statement by Sponsor: **REP. KRENZLER** introduced the bill.
{Tape : 1; Side : A; Approx. Time Counter : 27.3 - 32}

Proponents' Testimony:

Mr. Bill Kennedy, Yellowstone County Commissioner.
{Tape : 1; Side : A; Approx. Time Counter : 32 - 1:B:4.1}

Mr. Donald Harr, Physician, Billings.
{Tape : 1; Side : B; Approx. Time Counter : 4.1 - 6.7}

Ms. Andrea Marrow, Executive Director of Mental Health Association of Montana.
EXHIBIT(huh39a01)
{Tape : 1; Side : B; Approx. Time Counter : 6.7 - 8.8}

Mr. Bob Olsen, Associated Health Care Providers, MHA.
{Tape : 1; Side : B; Approx. Time Counter : 8.8 - 12.1}

Ms. Kathy McGowan, Montana Council of Mental Health Centers.
{Tape : 1; Side : B; Approx. Time Counter : 12.1 - 13.2}

Mr. Kip Smith, Montana Primary Care, proposed an amendment to the bill.
{Tape : 1; Side : B; Approx. Time Counter : 13.2 - 16.1}

Dr. Nathan Munn, President of the Montana Psychiatric Association.
{Tape : 1; Side : B; Approx. Time Counter : 16.1 - 17.9}

Mr. Jeffrey Krott, Consumer of Mental Health Services.
{Tape : 1; Side : B; Approx. Time Counter : 17.9 - 19.3}

Mr. Keith Colbo, Deaconess Billings Clinic.
{Tape : 1; Side : B; Approx. Time Counter : 19.3 - 20.7}

Mr. Al Smith, Montana Trial Lawyers Association.
{Tape : 1; Side : B; Approx. Time Counter : 20.7 - 22.3}

Ms. Anita Rossman, Montana Advocacy Program.
{Tape : 1; Side : B; Approx. Time Counter : 22.3 - 24.1}

Ms. Nancy McLane, self.
{Tape : 1; Side : B; Approx. Time Counter : 24.1 - 25.4}

Ms. Sami Butler, Montana Nurses Association.
{Tape : 1; Side : B; Approx. Time Counter : 25.4 - 25.7}

Ms. Gloria Hermanson, Montana Psychological Association.
{Tape : 1; Side : B; Approx. Time Counter : 25.7 - 26.2}

Ms. Kelley Hibbard, Montana Senior Citizen's Association.
{Tape : 1; Side : B; Approx. Time Counter : 26.2 - 26.3}

Ms. Mary McCue, Montana Clinical Mental Health Counselor's Association.

{Tape : 1; Side : B; Approx. Time Counter : 26.3 - 26.9}
Mr. Vernon Bertleson, Montana Senior Citizen's Association.
{Tape : 1; Side : B; Approx. Time Counter : 26.9 - 28.4}

Mr. Larry Noonan, Executive Director of AWARE Incorporated.
{Tape : 1; Side : B; Approx. Time Counter : 28.4 - 29.6}

Mr. John Wilkinson, Administrator of Intermountain Children's Home.
{Tape : 1; Side : B; Approx. Time Counter : 29.6 - 30.5}

Mr. Mark O'Keefe, Insurance Commissioner.
{Tape : 1; Side : B; Approx. Time Counter : 30.5 - 2:A:5.6}

Ms. Jacqueline Lenmark, Magellan Behavioral Health, distributed **EXHIBIT(huh39a02)**, proposed amendments to **HB 554**.
{Tape : 2; Side : A; Approx. Time Counter : 5.6 - 11.9}

Opponents' Testimony: None.

Informational Testimony: **Mr. Mike Batice**, Administrator for the Division of Criminal Investigation for the Department of Justice, distributed **EXHIBIT(huh39a03)**, proposed amendments to **HB 554**.
{Tape : 2; Side : A; Approx. Time Counter : 11.9 - 13.6}

Questions from Committee Members and Responses:
{Tape : 2; Side : A; Approx. Time Counter : 13.6 - 3:A:0.7}

Closing by Sponsor: **REP. KRENZLER** closed.
{Tape : 3; Side : A; Approx. Time Counter : 0.7 - 4.1}

HEARING ON HOUSE 607

Opening Statement by Sponsor: **REP. SOFT** introduced the bill.
{Tape : 3; Side : A; Approx. Time Counter : 4.1 - 13.8}

Proponents' Testimony:

Mr. Jerry Lindorf, American Medical Association, distributed **EXHIBIT(huh39a04)**.
{Tape : 3; Side : A; Approx. Time Counter : 13.8 - 26.1}

Ms. Mona Jamison, representing Shodair Hospital.
{Tape : 3; Side : A; Approx. Time Counter : 26.1 - 29.9}

Mr. Donald Harr, Physician in Billings.
{Tape : 3; Side : A; Approx. Time Counter : 29.9 - 31}

Mr. Al Smith, Montana Trial Lawyers Association.
{Tape : 3; Side : A; Approx. Time Counter : 31 - 32}

Mr. Jim Ahrens, President of the Montana Doctors Association.
{Tape : 3; Side : B; Approx. Time Counter : 0 - 0.3}

Mr. Bob Ross, Executive Director of the Community Mental Health Center in Billings.
{Tape : 3; Side : B; Approx. Time Counter : 0.3 - 1.3}

Ms. Sami Butler, Montana Nurses Association.
{Tape : 3; Side : B; Approx. Time Counter : 1.3 - 1.6}

Ms. Mary McCue, Montana Dental Association, distributed **EXHIBIT(huh39a05)**.
{Tape : 3; Side : B; Approx. Time Counter : 1.6 - 2.3}

Ms. Anita Rossman, Montana Advocacy Association.
{Tape : 3; Side : B; Approx. Time Counter : 2.3 - 3}

Mr. Steve Yeakel, Montana Council for Maternal & Child Health.
{Tape : 3; Side : B; Approx. Time Counter : 3 - 3.3}

Ms. Claudia Clifford, Insurance Commissioner's Office.
{Tape : 3; Side : B; Approx. Time Counter : 3.3 - 3.8}

Mr. Don Judge, AFL-CIO.
{Tape : 3; Side : B; Approx. Time Counter : 3.8 - 4}

Mr. Jim Smith, Montana State Pharmaceutical Association, distributed **EXHIBIT(huh39a06)**.
{Tape : 3; Side : B; Approx. Time Counter : 4 - 4.6}

Opponents' Testimony:

Mr. Steve Akre, Physician in Great Falls.
{Tape : 3; Side : B; Approx. Time Counter : 4.6 - 9.2}

Ms. Tanya Ask, Co-CEO of Montana Health, distributed **EXHIBIT(huh39a07)** and **EXHIBIT(huh39a08)**.
{Tape : 3; Side : B; Approx. Time Counter : 9.2 - 13}

Dr. Joseph Knapp, Western Montana Clinic.
{Tape : 3; Side : B; Approx. Time Counter : 13 - 16}

Ms. Joyce Brown, Department of Administration, distributed **EXHIBIT(huh39a09)**.

{Tape : 3; Side : B; Approx. Time Counter : 16 - 20.4}

Ms. Susan Whittey, Blue Cross Blue Shield, distributed **EXHIBIT(huh39a10)**.
{Tape : 3; Side : B; Approx. Time Counter : 20.4 - 21.9}

Mr. Tom Ebzery, Yellowstone Community Health Plan.
{Tape : 3; Side : B; Approx. Time Counter : 21.9 - 22.9}

Mr. Don Allen, Montana Medical Benefit Plan.
{Tape : 3; Side : B; Approx. Time Counter : 22.9 - 24}

Mr. Steve Turkiewicz, Montana Auto Dealers Association, distributed **EXHIBIT(huh39a11)**.
{Tape : 3; Side : B; Approx. Time Counter : 24 - 24.7}

Ms. Dana Walker, Co-CEO of Montana Care, distributed **EXHIBIT(huh39a12)**.

Mr. Keith Cobal, New West Health Care, distributed **EXHIBIT(huh39a13)**.
{Tape : 3; Side : B; Approx. Time Counter : 24.7 - 25.2}

Ms. Page Dreamen, HIAA.

Ms. Jacqueline Lenmark, Magellan Behavioral Health.
{Tape : 3; Side : B; Approx. Time Counter : 25.2 - 26.5}

Mr. Roy Brown, Montana Chamber of Commerce.
{Tape : 3; Side : B; Approx. Time Counter : 26.5 - 27.2}

EXHIBIT(huh39a14) & **EXHIBIT(huh39a15)**, letters of opposition.

Questions from Committee Members and Responses:
{Tape : 3; Side : B; Approx. Time Counter : 27.2 4:A:20.5}

Closing by Sponsor: **REP. SOFT** closed.
{Tape : 4; Side : A; Approx. Time Counter : 20.5 - 22.7}

EXECUTIVE ACTION ON HOUSE BILL 600

Motion: **REP. WILLIAMS** moved that **HB 600 DO PASS.**

Motion: **REP. WILLIAMS** moved that **HB 600 BE AMENDED**, see **EXHIBIT(huh39a16)**.
{Tape : 4; Side : A; Approx. Time Counter : 26.4 - 28.9}

Discussion: Concerning the amendments.
{Tape : 4; Side : A; Approx. Time Counter : 28.9 - 4:B:1.8}

Substitute Motion/Vote: **REP. MOLNAR** moved that **HB 600 BE TABLED. Motion carried 12-6 with Dell, Guggenheim, Lenhart, Shockley, Squires, and Williams voting no.**
{Tape : 4; Side : B; Approx. Time Counter : 1.8 - 4.5}

EXECUTIVE ACTION ON HOUSE BILL 498

Motion: **REP. SQUIRES** moved that **HB 498 DO PASS.**
{Tape : 4; Side : B; Approx. Time Counter : 4.5 - 5.3}

Discussion: Concerning the bill
{Tape : 4; Side : B; Approx. Time Counter : 5.3 - 13.2}

Motion/Vote: **REP. SIMON** moved that **HB 498 BE AMENDED. Motion carried unanimously,** see tape log.
{Tape : 4; Side : B; Approx. Time Counter : 13.2 - 16.2}

Motion: **REP. SIMON** moved that **HB 498 DO PASS AS AMENDED.**
{Tape : 4; Side : B; Approx. Time Counter : 16.2 - 16.6}

Substitute Motion/Vote: **REP. SHOCKLEY** moved that **HB 498 BE TABLED. Motion carried 14-4 with Dell, Hibbard, Krenzler, and Simon voting no.**
{Tape : 4; Side : B; Approx. Time Counter : 16.6 - 20.6}

EXECUTIVE ACTION ON HOUSE BILL 580

Motion/Vote: **REP. SCHMIDT** moved that **HB 580 DO PASS. Motion carried unanimously.**
{Tape : 4; Side : B; Approx. Time Counter : 20.6 - 21}

ADJOURNMENT

Adjournment: 7:30 P.M.

_____
REP. LOREN SOFT, Chairman

_____
CASSANDRA DRYNAN, Secretary

LS/JR

EXHIBIT(huh39aad)

FINAL
Signed:

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 10, 1999 at 3:20 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:
Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)

Members Excused: Sen. Duane Grimes (R)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Delila Croucher, Acting Committee Secretary
Martha McGee, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 399, HB 580, HB 275, 3/3/1999
Executive Action: None

HEARING ON HB 399

Sponsor: REP. GUGGENHEIM, HD 55, Helena

Proponents: **Dr. Larry McEvoy, Board of Medical Examiners**
Steve Meloy, Commerce
Jerry Lindorf, Montana Medical Association
Jim Aarons, Montana Hospital Association

Opponents: **Kip Smith, Montana Primary Care Association**

Opening Statement by Sponsor:

REP. GUGGENHEIM, HD 55, Helena, opened on her bill. This bill came about as a request from the State Board of Medical Examiners. In the last few years, questions have been raised regarding the jurisdiction of out of state physicians who have contact with Montana patients. The bill requires a certificate to be issued by the Board of Medical Examiners. The application is relatively simple and the proposed fee is $75, in contrast to the current medical licensor, that all physicians who practice in state are required to have. This bill imposes a simpler application for a tele-medicine certificate. This bill offers a consumer protection element for patients in Montana who may need to be diagnosed or treated by physicians who are not in the state. There are a variety of ways for out-of-state physicians to participate in the medical care of patients in Montana.

There are two kinds of these physicians that would be brought under the jurisdiction of this bill, and be expected to acquire the tele-medicine certificate. The first, are the out-of-state physicians, primarily surfacing in the field of psychology, who solicit patients living in Montana, and treat them over the telephone or interactive television. These physicians set up regularly scheduled fee-for-service, diagnoses and treatment. Physicians in that type of a direct patient care relationship, should be under the jurisdiction of the Montana Board of Medical Licensors. The Second deals primarily with diagnostic physicians. At times, it is necessary to send specimens, or even digital information, out of state. Physicians who are doing this kind of work on a regular, contractual basis, should be under the jurisdiction of this certificate. This is a consumer protection issue. **EXHIBIT(phs54a01)**
{Tape : 1; Side : A; Approx. Time Counter : 0 - 12.6}

Proponents' Testimony:

Dr. Larry McEvoy, Board of Medical Examiners, rose in support of the bill. This issue is a relevant concern. There are physicians all across the United States that want to practice in Montana via tele-medicine. The members of the Board feel that the state needs to get a handle on practitioners who operate

across state lines by electronic means. As of right now, in order to practice medicine in the state of Montana, one must have a full medical license. But if a physician is across state lines, they don't need a medical license at all, and can practice via telephone or television in this state. There is not a legal provision to prevent this. The cost will only be $50 for a tele-medicine license, instead of the $75 aforementioned. We will depend on other states, with whom we have agreements, to make sure that the physicians are fully credible and Board certified. The intent of the bill is not to hinder practice across state lines. It is important for the individuals receiving medical care in this state to be protected.
{Tape : 1; Side : A; Approx. Time Counter : 12.6 - 17.9}

Steve Meloy, Commerce, rose in support of the bill.
{Tape : 1; Side : A; Approx. Time Counter : 17.9 - 18.5}

Jerry Lindorf, Montana Medical Association, rose in support of the bill. One good thing that the bill does for the people of the state of Montana, is that it requires anybody practicing medicine to consent to the jurisdiction of the courts of this state for civil purposes, as well as the Board of Medical Examiners and the Medical Legal Panel. That is important in case someone is injured by a physician practicing tele-medicine. It is clear that one can pursue the matter within the state of Montana.

{Tape : 1; Side : A; Approx. Time Counter : 18.5 - 19.5}

Jim Aarons, Montana Hospital Association, rose in reluctant support of the bill. This bill is much broader than just tele-medicine. Tele-medicine is an interactive video system, where a physician can talk to another physician or patient, and make an observation or diagnosis. This bill regulates people who operate over the Internet, telephone, faxes, U.S. mail, etc. The problem is that diagnostic labs are subject to provisions of Montana law. The state contracts services to labs outside of the state and this may limit those services. The idea, in general, is good. On the other hand, we don't want to stop a good diagnostic process of medicine in the state of Montana.
{Tape : 1; Side : A; Approx. Time Counter : 19.5 - 23.4}

Opponents' Testimony:

Kip Smith, Montana Primary Care Association, rose in opposition of the bill. The bills intent is not clear. This bill is entitled as a bill prohibiting the practice of tele-medicine, yet there is no definition of tele-medicine in the bill. Today's tele-medicine would be two-way interactive audio\visual tele-consultation. This bill states that transmission by any means,

U.S. mail, phone, fax or interactive video is said to be tele-medicine. When this bill was introduced in the house, it was said to be modeled off of another bill. Today, it was said that the intent of the bill was not to regulate the practice of medicine across state lines. The model bill is intended to regulate the practice of medicine across state lines. The fact sheets that the sponsor spoke to, talks only about two narrow groups that this bill is intended to apply to. The sponsors fact sheet says that there are three tests that are required to meet the definition of tele-medicine. The requirements contradict themselves. The whole area of diagnostic physicians are exempt under this bill. Yet that is who the sponsor says is covered. As far as the list of four items that are not covered in the bill, there is an exemption for number one. Number two and number four have no exemption in the bill. Number three, is gray because it uses the word "occasionally." There is no clear line to define occasional from regular. There is also a question to whether or not the bill is enforceable. If a physician is living out-of-state and has clients in Montana, it is in question where the physician is practicing and where these crimes are being committed.
{Tape : 1; Side : A; Approx. Time Counter : 23.4 - 29.4}

Additional information was entered into the record.
EXHIBIT(phs54a02)

Questions from Committee Members and Responses:

SEN. THOMAS asked about the conflict that the exemptions project. **Mr. Lindorf** said that he agreed with the analysis of **Mr. Smith**. The original intent of the bill was amended by the House and that is what is before the Committee. **SEN. THOMAS** asked if what this bill is supposed to do, is protect consumers from doctors communicating through telecommunication systems. **REP. GUGGENHEIM** said that is not the intent of the bill. The bill intent is to make sure that when consultation done by phone and letter by physicians with someone out-of-state, that person will be certified.
{Tape : 1; Side : B; Approx. Time Counter : 18.3 - 23.2}

SEN. CHRISTIAENS said that the bill specifically addresses means to practice medicine for compensation on patients inside of Montana. **SEN. CHRISTIAENS** asked what will happen to teaching hospitals, such as the University of Washington, that observes and directs Montana physicians in the performance of surgery. He asked if because the University goes without compensation, they will not be covered. **REP. GUGGENHEIM** said that there would be virtually no situation where the state would expect the University to have a tele-medicine certificate. The University

offers expertise on an individual, patient by patient basis, initiated by a Montana physician on behalf of a Montana patient. It is not the bills intent for those individuals to have a certificate.
{Tape : 1; Side : B; Approx. Time Counter : 23.2 - 26.3}

SEN. CHRISTIAENS said that there is a problem with teaching hospitals reaching across state lines. If there is a malpractice situation, and the supervising physician is in another state, there is no recourse for patients. This is why some of the Federal Laws are being enacted. **REP. GUGGENHEIM** said that there has been attempts to have a national tele-medicine bill, but that went nowhere. It is in the better interest of Montana patients to have access to out-of-state experts in the teaching situation. It is highly unlikely that people in University situations would bother to get a certificate if they are doing specialized laboratory work.
{Tape : 1; Side : B; Approx. Time Counter : 26.3 - 29.1}

SEN. FRANKLIN asked if the examples given to the Committee are happening now, or if they are theoretic. **REP. GUGGENHEIM** said that there are different situations currently occurring. **SEN. FRANKLIN** asked if there are instances where there are regional referrals. **Dr. McEvoy** said that there is a Montana tele-psychiatry network that is an intrastate system. It is hard to tell whether or not they are going out-of-state. It is a concern that these out-of-state practitioners are known, and accountable to the people of the state if something goes array.
{Tape : 1; Side : B; Approx. Time Counter : 29.1 - 33.6}

Mr. Lindorf said that regarding the medicaid regulation, it does take the patient from the state, to the physician. That is what the bill prevents. It places jurisdiction in Montana courts so that the patient can make the physician come here. Tele-medicine is a practice from outside the state, on somebody in the state. It involves compensation, and a regularly established connection with the cases. The exceptions are in the bill. Any time there is communication about a patient with a Montana provider, it is not covered. Any time there is a communication with somebody outside the state with a patient in the state, but a collaboration with any provider in the state, it is not tele-medicine. What is left, is when somebody outside the state attempt to practice medicine in the state without contact with a provider in the state.
{Tape : 1; Side : B; Approx. Time Counter : 33.6 - 35.4}

SEN. DuPRATU said that the out-of-state practitioners appeals to him. He suggested that **Mr. Lindorf**, **Mr. Smith**, and **REP. GUGGENHEIM**, and **Mr. Aarons** get together and work on some

amendments. **REP. GUGGENHEIM** said that would be fine. What is being dealt with are the multiple ways that medicine is being practiced and some of their ambiguities. She is not sure if in all cases, things can be worked out. However, there is a board that supervises this and that gives worthy interpretations.
{Tape : 1; Side : B; Approx. Time Counter : 35.4 - 37}

SEN. THOMAS asked **Mr. Smith** to explain his position a bit further. **Mr. Smith** clarified that as far as the federal Medicare reimbursement regulations on telecommunications, that they have determined that the use of telecommunications to furnish a medical service, effectively transports the patient to the consultant. Therefore, the site of the tele-consultation is the location of the provider providing the consultation. Upon first reading this bill, **Mr. Smith** said that he though it was trying to regulate live two-way tele-communication. It is a valid concern to figure out how they fit in the practice of medicine, and the fact that technology allows us to cross state lines. If we try to regulate what we can do in our own homes, whether a fee is paid or not, it is unclear how far this can be taken. There is a way to regulate interactive, two-way telecommunication. There is a difference between live, two-way interaction and what is called store and forward, which is the diagnostic, physician, laboratory cases.
{Tape : 1; Side : B; Approx. Time Counter : 37 - 40}

SEN. BERRY asked if there were rules governing Montana doctors who practice out of state. **Pat England** said that if a physician has a license in Montana, even if he commits malpractice in another state, the Board has jurisdiction to take a look at that case. The physician, in coming into the state, and asking for a license, is volunteering themselves to the jurisdiction of the Montana Board of Medical Examiners, Medical Legal Panel, and the courts of Montana. This is not a departure from what is currently the law for people who have full licenses in the state. As far a limits in peoples homes, we do that now for the Montana patient who brings patients into his home right now.
{Tape : 1; Side : B; Approx. Time Counter : 40 - 42.3}

SEN. BERRY asked if the same process that this would require for people to practice in Montana, would be required of a Montanan who wishes to practice in another state. **Ms. England** said that if that state has a tele-medicine bill, a similar process would occur. We either do this regulating on a state level, or the Federal Government will step in and tell the state what we can and can not regulate.
{Tape : 2; Side : A; Approx. Time Counter : 0 - 2.3}

SEN. BISHOP asked if the out-of-state physician has to visit the state and present himself before the Board in order to receive this license. **Ms. England** said there is an application that can be sent in to be processed. The criteria for licensing is very strict because the scrutiny the tele-medicine practitioners undergo, is lower and different than someone who wants full licensing in the state.
{Tape : 2; Side : A; Approx. Time Counter : 2.3 - 3.2}

SEN. BISHOP asked if an out-of-state physician is treating someone in the state, and the situation rises where the someone really needs to see that patient in person, if there are restrictions on where the files are stored. **Ms. England** said that there is a provision in the bill that requires that the practitioner must maintain written, or readily retrievable electronic records. In the Unprofessional Conduct Code, there is a provision stating that failing to turn over record to the patient, patients legal council, or other local Montana physicians is unprofessional conduct and can be disciplined by the Board of Medical Examiners.
{Tape : 2; Side : A; Approx. Time Counter : 3.2 - 4.5}

SEN. BISHOP said that a lot of proper diagnoses depends on in-person examinations. **Dr. McEvoy** said that is true. Soon there will be a lot of patients who have two-way televisions available in their homes, via computer. This gives both audio and visual capabilities.
{Tape : 2; Side : A; Approx. Time Counter : 4.5 - 5.6}

Closing by Sponsor:

REP. GUGGENHEIM closed on her bill. This is not a huge problem today, but we are on the edge of a problem. This bill establishes some guidelines.
{Tape : 2; Side : A; Approx. Time Counter : 5.6 - 7.1}

HEARING ON HB 580

Sponsor: **REP. TRUDY SCHMIDT, HD 42, Great Falls**

Proponents: **Steve Meloy, Commerce**
Norma Jean Boles, Department of Corrections
Deb Christofferson, CCADC/MSU
Sharone K. Howard, CCADC/MSU
Sami Butler, Montana Nurses Association
John Strandell, Cascade County Sheriff

Opponents:

Opening Statement by Sponsor:

REP. TRUDY SCHMIDT, HD 42, Great Falls opened on her bill. This bill is entitled an act providing complaints of unprofessional conduct by licensed and certified health care or rehabilitative services providers from persons detained in county detention centers must be submitted to review team administered by the Department of Commerce prior to being filed with a licensing board. Statute was enacted by the 1997 legislature with the intent of reducing the risk to health care providers.

The intent of the statute was not to deny inmates an avenue which is open to the public. Rather the intent was to place a review process between the inmate and the health care professionals, whereby a review of the file complaint can be conducted by a qualified health care professional who will determine if cause existed before the complaint against a licensed person to the respected Board. The intermediate reviewers are professionals who have experience in the correctional health care delivery field and understand both the obligation from the licensor and the correctional environment.

When the first statute was enacted, the need to include inmates who are under the jurisdiction of the county sheriff was not considered. However, the regionalization of the prison population of partnerships between the counties and the Department of Corrections has helped to define that the same problems exist in all areas of correctional health care practice. Inmates know the power of filing a complaint and use that information to threaten providers in an attempt to receive what they want. This expansion of statute would serve as a buffer against such threats while preserving the Board review process for valid complaints.
{Tape : 2; Side : A; Approx. Time Counter : 7.1 - 10.8}

Proponents' Testimony:

Steve Meloy, Commerce, rose in support of the bill. Last session the Department amended the need for complaints filed against a health professional under the regulation that the case would have to be reviewed first by the Department of Correction to see if the case merited being forward to the Board. In the years prior to this, there were sixteen complaints filed and after passage of these rules there were only two. This bill is an extension of the ideas put forth last session.
{Tape : 2; Side : A; Approx. Time Counter : 10.8 - 12.8}

Norma Jean Boles, Department of Corrections, rose in support of the bill. The Department found itself in a similar situation as the regional prisons and jails are now in retaining quality health care and rehabilitation professionals for inmates, in light of the complaints historically made by inmates. Physicians, dentists, advanced practice nurses and registered nurses take great exception to blotches on their record from licensing agencies. The issue becomes the ability to provide quality care.
EXHIBIT(phs54a03)
{Tape : 2; Side : A; Approx. Time Counter : 12.8 - 15}

Deb Christofferson, CCADC/MSU, rose is support of the bill. The broad range of needs for inmates makes things challenging and exciting. The range of needs are both emergent and non-emergent. It should not surprise anyone, that the inmates don't always tell the real story. People who enter the facility as county inmates are under served by the health care community, or they have a history of moving from one health care provider to another seeking medications for complaints that are often answered with prescriptions for narcotics.

Many hours are spent trying to establish health histories of the inmates. Their needs are assessed, treatments are completed and medicines are administered. In a setting outside the prison, interaction with a patient would be accompanied with pleasant exchanges and mutual respect. That is not always the case in a correctional setting. By virtue of not being able to agree or give the inmate that which they desire, an adversarial relationship can exist with the inmate. Certainly, this does not exist with all inmates, however, when it does, one of the threats posed by inmates is related to ones license. The intermediate protection of a review by qualified professionals and those who are experienced in corrections before the complaint reaches the Board, is necessary.
{Tape : 2; Side : A; Approx. Time Counter : 15 - 17.8}

Sharone K. Howard, CCADC/MSU, rose in support of the bill. The quality of complaints filed by inmates is something that would be beneficial for a review committee to filter through. The Boards time needs to be relegated to valid complaints in malpractice issues. Inmates are, at times, not the most desirable to serve. Most who work withing the health care facility are there by choice. However, it is felt by many that there is a great need to level the playing field with the inmates. They are very sophisticated in getting what they desire. It is not always possible to award that which they believe they need.
{Tape : 2; Side : A; Approx. Time Counter : 17.8 - 20.9}

Sami Butler, Montana Nurses Association, rose in support of the bill. There are checks within the review process that gives due process to the inmates and also gives protection to nurses.
{Tape : 2; Side : A; Approx. Time Counter : 20.9 - 21.2}

John Strandell, Cascade County Sheriff, rose in support of the bill. One of the jobs of a sheriff is the responsibility of inmate medical care. In order to provide proper inmate medical care, it is necessary to have qualified and experienced staff available. This bill provides protection in order to contract, recruit and hire to provider services in the facilities. If this bill is not put into place, there is a concern in the future in regards to hiring qualified personnel.

{Tape : 2; Side : A; Approx. Time Counter : 21.2 - 22.6}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. BARTLETT asked if there are going to be enough health care providers who have at least two years experience in correctional health care from each of the health care licensing areas to make up these review panels. **Ms. Howard** said that when this was being put together phone calls were made to providers who agreed to serve on these panels.
{Tape : 2; Side : A; Approx. Time Counter : 22.6 - 25.8}

SEN. BARTLETT said that each health care licensing board solicits individuals with qualifications to serve as well as the Department. **Mr. Meloy** said that the Boards are an agency in and of themselves and, by law, are attached autonomously. It is a combination of responsibilities to solicit names.
{Tape : 2; Side : A; Approx. Time Counter : 25.8 - 29}

SEN. CHRISTIAENS asked if since this has been enacted by the Department of Corrections, if these panels have already been put in place. **Mr. Meloy** said that they are not in place. What is good about this bill is that instead of an internal bureaucrat making the decisions, an advisory panel made up of qualified individuals will be in place.

SEN. CHRISTIAENS asked if the bill is talking about correctional rehabilitative services. **Ms. Boles** said that it does. **SEN. CHRISTIAENS** asked if the memorandum of understanding is between the Department of Commerce and the Department of Corrections, or the Department of Commerce and the county sheriffs. **Mr. Meloy** said that this is a memorandum of understanding between the

Department of Commerce and the Correctional facility that is not the state. Under this bill, non-state supervised correctional facilities are addressed.

SEN. CHRISTIAENS asked if this bill speaks to correctional facilities that are not under the Department of Corrections, and it so, what then happens to the jail portion of the Cascade County Detention Center. He inquired if this bill covers the jail portion and not the prison portion because that is already covered. **Mr. Meloy** said that is all correct.

SEN. CHRISTIAENS said if what this is trying to do, is take care of complaints for medical care, why does the panel meet only once every six months. **Mr. Meloy** said that there is a history of not having in statute how often boards will meet. The bill says "at least" twice a year, therefor they are not limited to only every six months.
{Tape : 2; Side : A; Approx. Time Counter : 29.0 - Tape : 2; Side : B; Approx. Time Counter : 21.0}

SEN. BARTLETT asked the Departments opinion in the event of amending the section that was added last session regarding complaints from the correctional facilities under the supervision of the Department of Corrections, being changed to be submitted to review panels as well. **Ms. Boles** said that she has not addressed that with the Department, but she has no problem with it.***{Tape : 2; Side : B; Approx. Time Counter : 21 - 23.8}***

Closing by Sponsor:

REP. SCHMIDT closed on her bill. The passage of this bill is important to health care professionals who are providing health care to the County prison population.
{Tape : 2; Side : B; Approx. Time Counter : 23.8 - 24.5}

HEARING ON HB 275

Sponsor: **REP. BARNHART, HD 29, Bozeman**

Proponents: **Charles Rahbein, DPHHS, Senior and Long Term Care**
Rose Hughs, MT Health Care Association
SEN. CHRISTIAENS, HD 23, Cascade County

Opponents: **None**

Opening Statement by Sponsor:

REP. BARNHART, HD 29, Bozeman, opened on her bill. This bill would tell the Department of Public Health and Human Services that to have a plan on aging. In the year 2010, the baby boomers will be 65 years old. This bill would direct Mike Hanshew to work with Area Agencies on Aging and look at the effects of aging with various groups. The Department has already put together an analysis on the state of aging in Montana. What they are asking is for all of the state agencies to start thinking about things that might happen as our population ages. What this bill says, is that the legislature would like state agencies to do reporting in communities and then bring that information back. It is important that these reports are given to the proper Committees over the interim.
EXHIBIT(phs54a04)
{Tape : 2; Side : B; Approx. Time Counter : 24.5 - 28.8}

Proponents' Testimony:

Charles Rahbein, DPHHS, Senior and Long Term Care, rose is support of the bill. The Division is willing to put a report together for the legislature. There is a report currently out, and the Division is in the process of putting together an executive summary that will be sent to each Representative and Senator. Because these are expensive reports, only those who request one, will get one.
{Tape : 2; Side : B; Approx. Time Counter : 28.8 - 29.7}

Rose Hughs, MT Health Care Association, rose in support of the bill. This bill is a way for the legislature, the policy making body of the state, to recognize all of the issues that involve the aging population. This bill requires the Agencies to make this a priority. Planning is a lot like prevention. It is always hard to get excited about planning or prevention because we always are dealing with the crisis of the day. Hopefully, the crisis that we look at in the future can be ameliorated. There are several programs that may need to be expanded or modified due to the aging population.
{Tape : 2; Side : B; Approx. Time Counter : 29.7 - 33.4}

SEN. CHRISTIAENS, HD 23, Cascade County, rose in support of the bill. We need to take the time now, so that when the baby-boom hits, we know that we have looked at what is available for seniors across the state.
{Tape : 2; Side : B; Approx. Time Counter : 33.4 - 35.4}

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. BARNHART closed on her bill.
{Tape : 2; Side : B; Approx. Time Counter : 35.4 - 36.9}

ADJOURNMENT

Adjournment: 5:00 P.M.

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SEN. AL BISHOP, Chairman

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Delila Croucher, Acting Secretary

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Martha McGee, Secretary

AB/DC

EXHIBIT(phs54aad)